

STEVEN W. MYHRE
Acting United States Attorney
PATRICK BURNS
Assistant United States Attorney
Nevada State Bar #: 11779
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
PHONE: (702) 388-6336 / FAX: (702) 388-6418
John.P.Burns@usdoj.gov

Attorneys for the United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD LEE TRIMMER,

Defendant.

Case No.: 2:97-CR-00088-RFB

**GOVERNMENT'S EMERGENCY
MOTION TO EXTEND FILING
DEADLINES TWO WEEKS**

COMES NOW the United State of America, by and through STEVEN W. MYHRE, Acting United States Attorney, and PATRICK BURNS, Assistant United States Attorney, and hereby respectfully submits this Emergency Motion to Extend Filing Deadlines Two Weeks.

I. Factual and Procedural Background

The Court set a briefing schedule that required Defendant Richard Trimmer's (Trimmer) attorneys to submit to the Bureau of Prisons (BOP), on March 24, 2017, a proposed plan for Trimmer's conditional release. The Bureau of Prisons was ordered to evaluate Trimmer's proposal and, on March 31, 2017, submit to Trimmer's attorneys a

1 written response to the proposal addressing several questions enumerated by the Court.
2 The Court ordered Trimmer's proposed plan to be filed on April 4, 2017, with a
3 response/objection from the Government, and a hearing occurring on April 11 and 18,
4 2017, respectively. Because the BOP personnel involved in Trimmer's care require
5 additional time to meaningfully evaluate Trimmer's proposed release plan, the
6 Government now files this emergency motion to extend the deadlines and hearing date
7 in this case by two weeks.

8 **II. Argument**

9 **Good Cause and the Need for a Meaningful Review of Trimmer's Proposed** 10 **Release Plan Justifies Permitting BOP Two Additional Weeks to Evaluate the** 11 **Plan and Formulate a Recommendation as to Its Viability**

12 On March 24, 2017, the undersigned counsel was made aware by BOP that its
13 Risk Panel physicians and other staff require additional time in order to conduct a
14 meaningful evaluation of Trimmer's proposed plan for his conditional release. This
15 request appears to be imminently reasonable and made for the good faith purpose of
16 conducting a meaningful evaluation of the plan. Thus, the Government requests the
17 Court to permit such additional time and extend the deadlines and hearing date in this
18 matter two weeks.

19 Good cause supports this request. First, no BOP personnel were ordered to be
20 present at the time the Court's briefing schedule was established. Thus, the original
21 deadline was arrived at without the involved personnel's input as to how much time
22 would be required to address Trimmer's plan. On March 24, 2017, the undersigned and
23 Trimmer's counsel were advised that the head of the Risk Panel, Dr. Jason E. Gabel,
24 Ph.D., LP, the chief psychologist at FMC Rochester, was concerned that the March 31,

1 2017 deadline is problematically short in terms of permitting the required risk
2 assessment panel review of Trimmer's proposal. Additionally, BOP counsel indicates
3 that Dr. Gabel is a key testifying witness in a contested 4246 hearing, and will testify on
4 Thursday, March 30, 2017, with pre-hearing meetings regarding the case on Monday,
5 March 27, 2017, and Wednesday, March 29, 2017.¹ Moreover, BOP counsel appears to
6 have concerns that the short deadline might conflict with the maternity leave of an
7 employee involved in the evaluation process.

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9 Equally important, BOP requires time to research (and in some cases contact) the
10 various service providers included in Trimmer's proposed plan, and such contacts are
11 essential to a meaningful review of the plan. Moreover, the BOP social worker indicates
12 that Probation must be consulted about the proposed plan. Funding issues regarding the
13 half-way house placement need to be addressed for the plan to be viable. And the
14 availability of a such a placement in a halfway house—such placements are at a
15 premium and can take well over a month to open—needs to be investigated. Finally,
16 according to BOP counsel, it appears that Trimmer was recently released from an
17 inpatient stay at the Mayo Clinic where he was the subject of multiple exploratory lung
18 surgeries and nearly passed away during a nineteen-day hospitalization during the
19 period February 10-28, 2017, and an earlier six-day, February 3-8, 2017, hospitalization.
20 BOP asked the undersigned to seek out an additional two weeks to evaluate Trimmer's
21 proposed release plan, with BOP's response being due on April 14, 2017 if the Court sees
22 fit.

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¹ Due to the procedural posture of that proceeding, it cannot be continued.

Given this clear good cause for permitting BOP a mere two additional weeks, the undersigned requested Trimmer's counsel to stipulate to presenting a proposed order to the Court, which would extend the current deadlines two weeks. Trimmer's counsel rejected such a stipulation, indicating that it was Trimmer himself who must agree to the stipulation. Apparently Trimmer was consulted and he does not agree to permit BOP the additional time to investigate the proposed release plan. Thus, the Government is relegated to presenting the Court with this motion on an emergency basis requesting that the Court see fit to permit BOP an additional two weeks in order to provide a meaningful evaluation of the proposed plan, and adjustment of the other deadlines and hearing date.

III. Conclusion

WHEREFORE, after consideration of the included facts, points, authorities, and arguments, the Government respectfully requests that this Court GRANT this motion.

DATED this 27th day of March, 2017.

Respectfully submitted,

STEVEN W. MYHRE
Acting United States Attorney

//s//

PATRICK BURNS
Assistant United States Attorney

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD LEE TRIMMER,

Defendant.

Case No.: 2:97-CR-00088-RFB

ORDER

GOOD CAUSE APPEARING, IT IS ORDERED that:

(1) The Bureau of Prisons shall, no later than April 14, 2017, submit to Defendant Trimmer's attorney its response to the proposed release plan;

(2) Defendant Trimmer shall file his proposed release plan by April 18, 2017;

(3) The Government's response or objection to the proposed release plan is due by April 25, 2017; and

(4) The Court shall conduct a hearing on these supplemental pleadings on May 2, 2017 at 9:30 AM. The hearing set for April 18, 2017 is vacated.

Dated this 28th day of March, 2017



RICHARD F. BOULWARE, II
United States District Judge

Certificate of Service

I, Veronica Criste, hereby certify that I am an employee of the United States Department of Justice, and that on this day I served a copy of the following: GOVERNMENT'S EMERGENCY MOTION TO EXTEND FILING DEADLINES TWO WEEKS, upon counsel for all defendants appearing in this matter via the CM/ECF system, by electronically filing said document.

Dated: May 27, 2017

/s/ Veronica Criste
Legal Assistant to PATRICK BURNS
Assistant United States Attorney
District of Nevada